

Abstract (English)

Legal protection of computer program

The subject of the thesis is the legal protection of computer programs. The thesis provides for various perspectives of legal protection analysis, namely static protection, dynamic changes and perspectives for enforcement. The aim is to summarize the complex view on forms of protection and disposals of computer programs, especially taking into consideration extremely fast technological advances in the latest decades. This view on legal protection is further extended by a short analysis of development of protection and enforcement of rights related to computer programs within the digital environment.

It is essential to view the protection of computer programs as a very specific subject of legal relations. Computer programs have emerged just recently and the opinions on their protection still vary. The primary form of protection is the copyright protection. However, computer programs are defined typically by their functional character which is not reflected by standard copyright protection. Legal protection is therefore amended to reflect these aspects via implementation of specific rights based on directives on protection of computer programs. The thesis reflects also judicial advances, especially taking into consideration the shifts in the interpretations determined by the jurisprudence of Court of Justice of the European Union in the latest decade. There is also a shift of the computer programs to clouds which is also analyzed herein, especially in connection with the forms of protection and disposals of rights in computer programs.

The secondary protection of computer programs is a patent protection. This protection is already a reality even in Europe, if a computer implemented invention has a technical effect. There are patents granted which do not meet all requirements for registration, especially the inventive step. The thesis also analyses how the companies and individuals treat such situation.

Alternative methods may provide an interesting point of view on possibilities of protection of selected parts of programs, such as algorithms or functionality (and its protection against cloning). However, these models cannot replace already established forms of protection, especially informal copyright protection, formal patent protection and informal protection via a trade secret.

Based on Hegel's theory, copyright also reflects the personality of an author. However, due to lowered standard of eligibility for protection and functional character of computer program, this concept shall not be relevant for computer program in the same extent. The thesis addresses the question of the necessity of effective treatment and disposals of computer programs which is one of the most important contemporary objects for legal relations. The authors of this thesis address transfers, specific licensing structures including viral licensing structures. The latest point of this part of analysis describes the trends in legal protection of today, namely provision of functionality of a computer programs as a service without any need to have an interference with intellectual property vested in computer programs.

The enforcement of rights related to computer programs in today's globalized world shall be summarized as follows: either there is an internationally accepted regime of protection and enforcement of rights vested in computer programs based on international conventions (such as Berne Convention) or there is an autonomous structure which are slowly starting to emerge as part of novel and complex model of legal pluralism.

Key words: computer program, copyright, patent